

APPENDIX II

SUMMARY JUDGMENT REQUIREMENTS

NOTICE

This appendix contains specific, mandatory instructions regarding the preparation and submission of briefs and evidentiary materials in support of and in opposition to potentially dispositive motions. These instructions must be followed explicitly. Except for good cause shown, briefs and evidentiary materials that do not conform to the following requirements may be stricken.

INTRODUCTION

This appendix sets forth the Court's instructions for submitting and responding to motions for summary judgment. For the ease of the Parties, the Court summarizes its instructions in the chart on the following page.

As you will see, the court staggers the deadlines for filing motions, supporting briefs, evidentiary materials, and courtesy copies to the court. The point of staggering the deadlines in this manner is to allow the parties sufficient time to cite CM/ECF document and page numbers in the briefs—particularly citations to evidentiary materials. Proper, uniform citation to the CM/ECF record assists both the court and the parties and is thus expected in all briefing.

SUMMARY CHART

Unless otherwise ordered by the Court, the following chart summarizes the parties' filing responsibilities. "Day 0" is the day the dispositive motion is filed.

PARTY	WHEN	MATERIALS DUE	WHERE FILED AND/OR DELIVERED
Movant	Day 0	Motion for Summary Judgment, Evidentiary Materials	CM/ECF (electronic filing)
	Day 1	Brief in Support	CM/ECF (electronic filing) Chambers (email Word document)
	Day 3 (noon)	3-ring Binder containing a) Motion b) Brief in Support c) Evidentiary Materials	Chambers (Anniston Federal Courthouse)
Respondent	Day 21	Evidentiary Materials (if any)	CM/ECF (electronic filing)
	Day 22	Response in Opposition	CM/ECF (electronic filing) Chambers (email Word document)
	Day 24 (noon)	3-ring binder containing a) Response in Opposition b) Evidentiary Materials (if any)	Chambers (Anniston Federal Courthouse)
Movant	Day 35	Evidentiary Materials (if any)	CM/ECF (electronic filing)
	Day 36	Reply Brief	CM/ECF (electronic filing) Chambers (email Word document)
	Day 38 (noon)	3-ring binder containing a) Reply Brief b) Evidentiary Materials (if any)	Chambers (Anniston Federal Courthouse)
<i>Page Limits:</i> Brief in Support of Motion (35), Brief in Opposition (35), Reply Brief (15) <i>Font/Spacing:</i> Double Spaced, Times New Roman, 14-point type in body, 12-point footnotes **Motions to alter these rules must be filed at least 48 hours before the deadline**			

A. REQUIREMENTS FOR MOTIONS AND BRIEFS

All motions and briefs shall use 14-point, Times New Roman font in the body and 12-point, Times New Roman font in footnotes. The text of briefs must be double-spaced, except for quotations exceeding 50 words, which may be block indented from the left and right margins and single spaced.

The brief supporting a motion for summary judgment cannot exceed 35 pages. The brief in opposition to a motion for summary judgment cannot exceed 35 pages. Reply briefs cannot exceed 15 pages.

All briefs must include a table of contents that accurately reflects the organization of the document. The table of contents is not included in the page limit.

The court will not consider arguments incorporated by reference to earlier filings and will not consider substantive arguments made in footnotes. The court may strike any brief that would exceed the page limits because of attempts to incorporate by reference or include substantive arguments in footnotes.

B. CALCULATING SUBMISSION DATES

The day that the motion(s) for summary judgment are filed is considered “Day 0,” and all deadlines that follow flow from that day. The Court will provide the parties with the deadline to file dispositive motions. That date will not be extended absent good cause. If the moving party wishes to file its motion before that date, it must file the motion on either a **Monday** or **Tuesday** to avoid weekend deadlines.

C. SUBMISSIONS

1. Motion for Summary Judgment

The party filing a dispositive motion has four responsibilities that begin on the filing deadline for dispositive motions—*i.e.* “Day 0:”

- Day 0: File the Motion for Summary Judgment via CM/ECF;
- Day 0: File evidentiary materials via CM/ECF;
- Day 1: File a brief in support of summary judgment via CM/ECF and email a copy to the court’s chambers; and,
- Day 3 (by noon): Submit a binder containing the Motion for Summary Judgment, brief in support, and evidentiary materials to the Clerk of Court.

The Court provides additional details on these submissions below.

a) Motion for Summary Judgment

The Court expects the dispositive motion to be ***concise***, to clearly state which claims are due to be summarily dismissed, and to clearly state the relief sought. Argument shall be reserved for the subsequent brief in support.

The motion shall be electronically filed via CM/ECF on the previously ordered deadline for dispositive motions.

b) Evidentiary Materials

On the same day that it files the motion for summary judgment, the moving party shall also electronically file via CM/ECF one set of all evidentiary materials

(e.g., affidavits, exhibits, depositions, or other products of discovery) that the party relies upon to support the motion.

Each volume of evidentiary materials must include a table of contents that includes a brief narrative description of each document included; for example, “Plaintiff’s Exhibit 1, the Deposition of John Jones.” For ease of citation, each affidavit, exhibit, deposition, or other product of discovery must be separately identified by a capital letter or numeral (*i.e.*, “Exhibit A” or “Exhibit 1”); and, if the exhibit contains more than one page, each page must be separately numbered. Counsel are directed to submit entire depositions, even if relying only on excerpts, including all exhibits to the depositions. Deposition travel transcripts that are submitted as part of the evidentiary record should include no more than four pages of deposition text per 8.5” by 11” page.

c) Brief in Support

The moving party shall electronically file via CM/ECF a brief supporting its Motion for Summary Judgment the day after filing the motion. On the same day, the moving party shall also email a copy of the brief, in Microsoft Word format, to the court at maze_chambers@alnd.uscourts.gov. The moving party shall copy opposing counsel on this email.

The brief in support shall contain, in this order, a table of contents, a statement of undisputed facts, and arguments supporting the motion, including citations to relevant legal authorities.

The moving party's statement of facts shall list in separately numbered paragraphs each material fact the moving party contends is true and not in genuine dispute, and upon which the moving party relies to demonstrate that it is entitled to summary judgment. Counsel must state these facts in clear, unambiguous, simple, declarative sentences.

Each statement of fact must be followed by a specific reference to those portions of the evidentiary record that the movant claims supports it. All citations to the evidentiary record, in all sections of the brief, shall include the CM/ECF document number, page number, and line number (if any). While the court reserves the right to consider evidentiary materials that are not specifically referenced in the brief, no party has a right to assume the court will consider such materials.

d) Binder of Materials (i.e. courtesy copy to the court)

By noon on the third day after filing its Motion for Summary Judgment, the moving party shall deliver to the court's chambers a 3-ring binder(s) that contains the following, in this order: (a) motion for summary judgment, (b) brief in support, and (c) evidentiary materials. The binder(s) may be mailed or hand delivered to the court's chambers at the United States District Court, Anniston Federal Courthouse,

1129 Noble Street, Anniston, Alabama 36201. Each document shall contain the CM/ECF stamp reflecting the document number, page number, and filing date of that document.

The moving party shall include a tab that identifies each of these documents. Additionally, the evidentiary material should include a tab corresponding to each document, with the specific identifier for that tab.

Regarding the hard copies of depositions, parties shall include the entire deposition, in travel transcript format consisting of no more than four pages of deposition text per 8 ½ by 11 inch page, as well as all exhibits to the depositions with sub-tabs, clearly labeled.

2. Response in Opposition

A party opposing the motion for summary judgment has three responsibilities that begin 21 days after the filing of the motion:

- Day 21: File Evidentiary Materials via CM/ECF;
- Day 22: File a brief in opposition to the motion via CM/ECF and email a copy to the court's chambers; and,
- Day 24 (by noon): Submit a binder containing the brief in opposition and evidentiary materials to this court's chambers at the Anniston Federal Courthouse.

The Court provides additional details on these submissions below.

a) Evidentiary Materials

Parties should refrain from re-submitting additional copies of previously-submitted materials. Instead, the party opposing the motion should reference materials included in the moving party's initial evidentiary submission without resubmitting those materials.

If the opposing party must reference evidentiary materials that were not submitted by the moving party, the opposing party shall electronically file via CM/ECF one set of such evidentiary materials (*e.g.*, affidavits, exhibits, depositions, or other products of discovery) 21 days after the moving party files its motion for summary judgment and evidentiary materials.

Each volume of evidentiary materials must include a table of contents that includes a brief narrative description of each document included; for example, "Defendant's Exhibit 1, the Deposition of Jane Jones." For ease of citation, each affidavit, exhibit, deposition, or other product of discovery must be separately identified by a capital letter or numeral (*i.e.*, "Exhibit A" or "Exhibit 1"); and, if the exhibit contains more than one page, each page must be separately numbered. Counsel are directed to submit entire depositions, even if relying only on excerpts, including all exhibits to the depositions. Deposition travel transcripts that are submitted as part of the evidentiary record should include no more than four pages of deposition text per 8.5" by 11" page.

b) *Brief in Opposition*

The opposing party shall electronically file via CM/ECF its brief opposing the Motion for Summary Judgment 21 days after the moving party files its brief in support of the motion (*i.e.* “Day 22”). On the same day, the opposing party shall also email a copy of the brief, in Microsoft Word format, to the court at maze_chambers@alnd.uscourts.gov. The opposing party shall copy opposing counsel on this email.

The brief in support shall contain, in this order, a table of Contents, a statement of facts, and arguments opposing the motion, including citations to relevant legal authorities. The statement of facts may include up to three sections, in the following order:

- Response to Moving Party’s Statement of Facts (if any)

The first section must consist of only the non-moving party’s disputes, if any, with the moving party’s claimed undisputed facts. The non-moving party’s response to the moving party’s claimed undisputed facts shall be in separately numbered paragraphs that coincide with those of the moving party’s claimed undisputed facts. Any statements of fact that are disputed by the non-moving party must be followed by a specific reference to those portions of the evidentiary record upon which the dispute is based. All material facts set forth in the statement required of the moving

party will be deemed to be admitted for summary judgment purposes unless controverted by the response of the party opposing summary judgment.

- Additional Undisputed Facts (if any)

The second section may contain additional, allegedly undisputed facts set out in separately numbered paragraphs that the opposing party contends require the denial of summary judgment. The second section of the opposing party's statement of facts, if any, shall be clearly designated as such. Each statement of fact in this section shall be supported by its own evidentiary citation. The opposing party should include only facts that the opposing party contends are true and not in genuine dispute.

- Additional Disputed Facts (if any)

The third section may contain additional, allegedly disputed facts set out in separately numbered paragraphs that the opposing party contends require the denial of summary judgment. The third section of the opposing party's statement of facts, if any, shall be clearly designated as such. Each statement of allegedly disputed facts must be followed by specific reference to those portions of the evidentiary record which both support and contradict the alleged fact.

Each statement of fact must be followed by a specific reference to those portions of the evidentiary record that the opposing party claims supports it. All

citations to the evidentiary record, in all sections of the party's brief, shall include the CM/ECF document number, page number, and line number (if any).

c) Binder of Materials (i.e. courtesy copy to the court)

By noon on the third day after filing its evidentiary materials (*i.e.* "Day 24"), the opposing party shall deliver to the a 3-ring binder(s) that contains the following, in this order: (a) brief in opposition and (b) evidentiary materials. The binder(s) may be mailed or hand delivered to the court's chambers at the United States District Court, Anniston Federal Courthouse, 1129 Noble Street, Anniston, Alabama 36201. Each document shall contain the CM/ECF stamp reflecting the document number, page number, and filing date of that document.

The opposing party shall include a tab that identifies each of these documents. Additionally, the evidentiary material should include a tab corresponding to each document, with the specific identifier for that tab.

Regarding the hard copies of depositions, parties shall include the entire deposition, in travel transcript format consisting of no more than four pages of deposition text per 8 ½ by 11 inch page, as well as all exhibits to the depositions with sub-tabs, clearly labeled.

3. Reply Brief

The moving party may (but is not required to) file a reply brief and additional evidentiary materials. If it does, it must also submit a binder containing these items.

a) *Additional Evidentiary Materials*

Additional evidentiary materials may be electronically filed via CM/ECF 14 days after the opposing party files its evidentiary materials (*i.e.* “Day 35”). Only those *previously-unfiled* evidentiary materials necessary to rebut factual statements made by the opposing party should be filed—*i.e.* no evidence should be filed twice.

b) *Reply brief*

The moving party may file a reply brief 14 days after the opposing party files its brief in opposition (*i.e.* “Day 36”). The reply brief must include the moving party’s disputes, if any, with the non-moving party’s additional claimed undisputed facts. The moving party’s response to the non-moving party’s additional claimed undisputed facts shall be in separately numbered paragraphs that coincide with those of the non-moving party’s additional claimed undisputed facts. Any statements of fact that are disputed by the moving party must be followed by a specific reference to those portions of the evidentiary record upon which the disputation is based. All additional material facts set forth in the statement required of the opposing parties will be deemed to be admitted for summary judgment purposes unless controverted by the statement of the movant.

c) *Binder of Materials (i.e. courtesy copy to the court)*

By noon on the third day after filing its additional evidentiary materials (*i.e.* “Day 38”), the moving party shall deliver a 3-ring binder(s) that contains the

following, in this order: (a) reply brief and (b) evidentiary materials. The same rules that governed the party's binder containing the motion for summary judgment and supporting materials govern this binder of reply materials.

* * *

These rules and deadlines are designed to assist the parties and the court, and thus the Court is disinclined to deviate from them. If a party believes it is unable to meet a deadline, that party shall file a motion for extension *at least 48 hours* before the deadline that shows good cause why the court should adjust the schedule.